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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 LESLEY RICHARDSON,

8 Plaintiff,

9 v.

10 IMAGE SENSING SYSTEMS, INC., a
foreign corporation,

11 Defendant.
12

CASE NO. C10-5629BHS

ORDER

13 This matter comes before the Court on Plaintiff Lesley Richardson's
14 ("Richardson") motion to continue discovery motion deadline (Dkt. 21), Richardson's
15 motion to continue hearing on motion for summary judgment (Dkt. 25), Defendant Image
16 Sensing Systems, Inc.'s ("ISS") motion for summary judgment (Dkt. 17), and ISS's
17 motion for sanctions (Dkt. 23). The Court has reviewed the briefs filed in support of and
18 in opposition to the motions and the remainder of the file.

19 **I. PROCEDURAL HISTORY**

20 On August 2, 2010, Richardson filed a complaint against ISS in Pierce County
21 Superior Court alleging violations of the Washington Law Against Discrimination
22 ("WLAD"), RCW Chapter 49.60, and the Washington Wage Payment Act ("WPA"),
23 RCW Chapter 49.48. Dkt. 1, Exh. A. On September 2, 2010, the action was removed to
24 this Court. Dkt. 1.

25 On January 27, 2011, the Court issued a scheduling order setting various
26 deadlines, including the discovery motion deadline of 8/15/2011 and the dispositive
27 motion deadline of 10/12/2011. Dkt. 9.
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1 On July 28, 2011, ISS filed a motion for summary judgment. Dkt. 17. On August
2 29, 2011, Richardson responded. Dkt. 33. On September 2, 2011, ISS replied. Dkt. 43.

3 On August 15, 2011, Richardson filed a motion to extend the discovery motion
4 deadline. Dkt. 21. On August 24, 2011, ISS responded. Dkt. 28. On August 26, 2011,
5 Richardson replied. Dkt. 30.

6 On August 18, 2011, ISS filed a motion for sanctions. Dkt. 23. On August 30,
7 2011, Richardson responded. Dkt. 39. On September 2, 2011, ISS replied. Dkt. 46.

8 On August 18, 2011, Richardson filed a motion to continue hearing on motion for
9 summary judgment. Dkt. 25. On August 24, 2011, ISS responded. Dkt. 27. On August
10 26, 2011, Richardson replied. Dkt. 31.

11 **II. DISCUSSION**

12 **A. Motion to Extend Discovery Motion Deadline**

13 Richardson requested that the Court extend the deadline to file discovery motions
14 from 8/15/2011 to 9/13/2011. Dkt. 21 at 3. As of the date of this order, Richardson has
15 not filed a discovery motion. Therefore, the Court denies Richardson's motion as moot.

16 **B. Motion for Summary Judgment and Continuance of Hearing**

17 ISS filed its motion for summary judgment prior to the close of discovery.
18 Richardson requests that the Court grant a continuance of the hearing date, i.e. renote the
19 motion, pursuant to Fed. R. Civ. P. 56(f)(2). Dkt. 25 at 3. The Court assumes Richardson
20 meant Fed. R. Civ. P. 56(d)(2), which provides that, "[i]f a nonmovant shows by affidavit
21 or declaration that, for specified reasons, it cannot present facts essential to justify its
22 opposition, the court may . . . allow time to . . . take discovery."
23

24 Richardson has filed a declaration stating that facts essential to her cause of action
25 for age discrimination may be obtained through depositions that were to occur after her
26 response to the summary judgment motion was due. *See* Dkt. 26. The Court finds that,
27 although it appears Richardson has been dilatory in her pursuit of discovery, ISS will not
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1 be prejudiced by renoting the motion for summary judgment so that Richardson may have
2 an opportunity to include facts from recent depositions in her response to the dispositive
3 motion. Moreover, the dispositive motion deadline is four weeks away and renoting the
4 motion will not otherwise interfere with other important deadlines. Therefore, the Court
5 grants Richardson's continuance and renotes the motion for summary judgment for
6 consideration on October 14, 2011.

7 **C. Motion for Sanctions**

8 ISS moves for sanctions against Richardson and her counsel for "filing frivolous
9 and meritless claims of age discrimination and withholding wages." Dkt. 23 at 2. The
10 Court is unable to evaluate whether Richardson's claim are frivolous or meritless until a
11 final decision on a dispositive motion or until after trial has completed. Therefore, at this
12 time the Court will renote the motion for sanctions to be heard with the dispositive
13 motion.
14

15 **III. ORDER**

16 Therefore, it is hereby **ORDERED** that Richardson's motion to continue
17 discovery motion deadline (Dkt. 21) is **DENIED**, Richardson's motion to continue
18 hearing on motion for summary judgment (Dkt. 25) is **GRANTED** and ISS's motion for
19 summary judgment (Dkt. 17) and motion for sanctions (Dkt. 23) are renoted to October
20 14, 2011.

21 DATED this 14th day of September, 2011.

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24 BENJAMIN H. SETTLE
25 United States District Judge
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